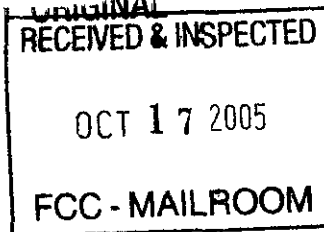


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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Comprehensive Review of Universal	)	WC Docket No. 05-195
Service Fund Management, Administration,	)	
And Oversight	)	FCC 05-124
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	
	)	FCC 05-124
	)	

To: The Commission

**COMMENTS OF THE LOS ANGELES UNIFIED SCHOOL DISTRICT**

The Los Angeles Unified School District appreciates the opportunity to provide comment in the matter of FCC 05-124, Notice of Proposed Rulemaking regarding the management and administration of the Universal Service Fund (USF). The USF program has been responsible for providing essential access and services to close to one million staff and students that make up the Los Angeles Unified School (LAUSD) learning community. Geographically the district covers approximately 704 square miles, which includes the City of Los Angeles as well as all or parts of 29 other cities and some areas of the County of Los Angeles. Over 83 percent of the students are either at or below the poverty level as indicated by the number of students on the Free or Reduced Priced Lunch program. District staff believes the changes proposed in this document will help to streamline and improve the processes related to the USF Program.

**Administrative Structure:**

The Los Angeles Unified School District staff believes the Administrator's Board of Directors should include a minimum of two School District members, representing both a large and small

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district. Allowing School District representation provides ongoing input to other members regarding the challenges school districts face when attempting to comply with the complicated rules of the USF program and provides feedback from essential “customers” of the program.

The FCC should adopt rules requiring the Administrator to implement ethics standards and procedures for addressing conflicts of interest. Many school districts have ethics requirements and conflict of interest laws for the specific reason of providing full disclosure and to avoid fraud. Employees and sub-contractors should be required to sign clearly documented ethics standards with substantial penalties for any violations. The FCC should adopt rules addressing the Administrator’s procedure for handling confidential information, including confidential information related to the Federal government.

Board of Director Meetings should be open and public with the exception of personnel matters and litigation and allow time for public comment. U.S. federal and state laws require regulatory authorities’ meetings, decisions and records to be made available to the public. It is reasonable the USAC honor such “sunshine laws” when dealing with E-Rate funds and policy. The FCC should encourage greater public participation by allowing school districts, libraries, service providers, and the general public to provide feedback to the Administrators and Board Members. While school districts, libraries and service providers have attended the Board of Directors Meetings, there is no specific avenue or agenda item allowing for public comments or inviting Districts to participate as visiting agencies. The Board of Directors should allow opportunities at each meeting for the public, school districts, libraries, service providers and consultants to address the Board of Directors, including sub-committee meetings. The Board of Directors Meetings should be held in different locations throughout the country to encourage Districts to attend and make comments.

### **Performance Measures for USAC**

The current Output Measures describing the level of activity such as application processing is inadequate. There seems to be no incentive to develop processes to meet the goal of providing funding to all qualified applicants by the July 1 date. The process is burdensome and reviewers continue to “nit pick” items as small as \$25 dollars in applications worth millions. There is a point of economic foolishness when it takes more time and money to get an answer on small dollar amounts than it will save. Timelines and deadlines do not seem to exist for the SLD and sub-contractors. There needs to be goals and measures for efficiency. Efficiency measures capture a program’s ability to perform its function and achieve its intended results relative to the resources expended. Measures should be aligned with a set of best practices.

The focus should be on streamlining processes to target funding for 100 percent of telecommunications, Internet Service, and basic maintenance (currently under Internal Connections), no later than July 1 of the funding year. The SLD may want to look at opening the window for 471s for these services sooner in order to make the July date. Target dates for funding Deferred Maintenance can be extended allowing all school districts and libraries to be funded for essential services.

### **E-Rate Performance Measures**

The FCC should divide services into two categories: essential and deferred maintenance. Essential services should be Telecommunications, Internet Service, and Basic Maintenance.

Deferred maintenance is the upgrade, refresh, modernization, or replacement of eligible equipment or systems that have reached end of life or fail to meet the instructional needs of schools. Deferred maintenance is one-time funding and would fall under the "2 in 5" year rule.

Performance measures for essential services should focus on access as well as connectivity. Access includes bandwidth, performance, and reliability. Bandwidth needs, in terms of the capacity, allow access to resources and applications requiring greater bandwidth. Performance and reliability could be measured in terms of the network being up and working (mean time between failures). Broadband access can use the same capacity/performance measures. Data network and telecommunications connectivity and access are essential systems for daily instruction and instructional support. Audits should continue to identify educational purpose and instructional use; however, the focus should be continuous access. Audits can also help determine to what level other goals of an Instructional Technology Plan are met. Such as: ability for teachers to track student data including assessments tied to curriculum content; providing Distance Learning for students and staff Professional Development; providing students with Advanced Placement classes; and allowing 24/7 education, anytime/anywhere.

Building on performance measures for essential services, and deferred maintenance should take into account cost effectiveness to achieve access. There needs to be a minimal level of what "basic" levels of physical support are required. Schools and districts should be allowed to replace infrastructure and equipment based on industry life cycles. There are industry standards to determine what "basic" levels of physical support are required.

The FCC should develop "ranges" of service including access, bandwidth, and infrastructure. The FCC could also address the issue of "gold plating." For example, schools and districts that exceed given ranges would have to appeal excessive capacity requests such as an OC 48 bandwidth circuit for a District of 10,000 and prove that their need exceeds the "range" for their size. Cost effectiveness and proven needs should be part of the criteria. This is an area where far greater scrutiny is necessary.

To address that small percentage of classrooms without connectivity there should be a special one-time set aside of funds left from previous years to network any remaining classrooms without connectivity. Every effort should be made to fund down to the 20 percent level to achieve 100 percent connectivity.

### **Program Management**

The E-Rate application process for essential services such as Telecommunications, Internet Service, and Basic Maintenance (currently under Internal Connections), should be shortened and streamlined. Developing criteria for "ranges" of service including access, bandwidth, infrastructure, etc., allows the FCC to address the issue of "gold plating" and helps to reduce the waste, fraud, and abuse. Any applications falling outside the "normal" range should go through much stricter scrutiny.

An example to improve efficiency is for the FCC to streamline the application process by allowing for three-year commitments when there is a multiyear contract. Why do extensive, repeated reviews on the same application and contract for three years? Require Program Integrity Assurance (PIA) reviews only if there is greater than ten percent increase in the value. Permit limited application corrections during PIA review.

Another area requiring significant reviewer time is maintenance. It is recommended the FCC examine how maintenance is funded and consider pushing toward Service Levels Agreements when it is more cost effective than detailed "time and materials" contracts. In the case of Los Angeles Unified School District, USAC and District staff spends hours analyzing service provider contracts and removing items less than \$100 in value considered ineligible. It costs thousands of dollars in man-hours to remove an insignificant ineligible item. The FCC should look at industry costs for maintenance and again set "norms" and look in more depth at the applications exceeding these norms. This will also help keep industry costs in check in their bid proposals. Setting these "norms" is of particular interest in order to protect smaller districts that don't have experienced IT procurement staffs. If Districts can show significant cost savings using Service Level Agreements compared to industry standards, those applications can be processed in significantly less time than the extremely detailed reviews now occurring of time and material contracts.

The Form 500 should become the "Change Form." In addition to date and funding changes the form could then include service or product changes and any other change allowable within the rules.

#### **Definition of Completed Application**

E-Rate applications are complicated and for many small districts overwhelming. There should be an established definition and checklist providing clear guidance on what is a completed application for E-Rate money. If any items are found missing then the applying District should be given ten business days to correct. There should be no rejections of applications for missing data without giving district, schools, or libraries time to correct the omission or clerical error.

#### **Timing of the Application Cycle**

The FCC should better synchronize the application and disbursement process with the planning and budget cycles of the schools and libraries benefiting from this program. California's Budget Cycle is from July 1 to June 30 but a final budget is routinely not approved for the fiscal year until well into August. School Districts in California do not know their final funding until after the budget is approved at the State Legislature, and then the individual district's budget must be approved at the local school district board which is least 9 or 10 months after the FCC's rule says they are to be finalized:

*Per FCC Rule 54.504(b)(2)(v), at the time the Beneficiary submits the FCC Form 470, all of the necessary funding must have been budgeted and approved to pay for its non-discounted portion for the requested assets and services for the funding year.*

A "draft budget" should be allowed as sufficient evidence for matching funds for any E-Rate work for the following fiscal year. It is also not unusual for District's to have to absorb mid-year cuts if the state's fiscal condition gets worse. The Form 486 provides for a self-certification from the School District that the funds are available before contract execution.

The District struggles with the timeliness of the National School Lunch Program ("NSLP"). California's NSLP numbers are gathered in October of the funding year but are actually not certified by the California Department of Education until April of the following year. Therefore

the numbers, when checked by the PIA reviewers are often different from those stated by the District. The most current figures are not available to the PIA reviewers unless the FCC changes its rules to include (as a spreadsheet attachment rather than a paper copy) a copy of the NSLP numbers as of October for each funding year. This rule change would provide for greater consistency and accuracy in the NSLP numbers submitted to the SLD and avoids numerous follow-up phone calls for verification. By certifying to the numbers that are submitted with the application, the District is therefore responsible for the back-up documentation (survey's or actual student applications) for the NSLP if audited.

In the past the FCC has allowed USAC/SLD to accept NSLP numbers, which are based on two different time frames. For example, if a PIA reviewer is not able to find the Free and Reduced (F&R) Lunch numbers on the California Department of Education (CDE) DataQuest website they ask for certification from the District to support these missing school numbers. Therefore they would have numbers for some schools from Oct. 1 of the previous funding year (based on the gathering of CBEST data) and then during PIA, the District would provide self-certified numbers from their "lowest month" for each of the schools that the PIA reviewer cannot find on the CDE website. This SLD practice creates two different sets of Free & Reduced numbers from two different timeframes. Allowing Districts to completely self-certify and provide the supporting documentation based on the most recent October 1st data during the Form 471 application process would end this Free & Reduced number confusion.

### **Service Providers and Consultants**

We agree the FCC should establish certain criteria, such as quality standards or standards of conduct, for participating service providers and consultants. Service providers and consultants should be certified and required to sign ethic standards. If there are any wrong doings then there should be enforced penalties.

### **Audit Requirements**

Audits are burdensome for all beneficiaries. All entities receiving E-Rate funds should be audited. Many times large districts are audited by other agencies and the FCC should have a process in place to determine if another agency has performed or is performing an audit. If another audit is occurring then the FCC audit should begin with these audits to determine if any action or another audit is needed. The District recommends an audit once every three years for all applications regardless of size or funding commitment.

The District believes if an audit finds unintentional errors or practices needing to be improved then there should be criteria in place to determine if the beneficiary needs more training or assistance. If there are a large number of errors, then the beneficiary can be placed on a watch list and a special PIA team can work closely with these Districts, schools, or libraries to ensure compliance and understanding of rules. The environment should be one where ministerial errors are allowed to be corrected with proper documentation.

Audits prior to project completion are problematic since final billing, inventories, and other documentation are not completed or finalized.

The entire E-Rate process is burdensome for all applicants' regardless of size of the entity or application. There are multiple audits, selective reviews, KPMG audits and PIA at the same time

for different years. It is extremely difficult for schools and libraries who have limited or no resources to respond to so many requests for different information in extremely short periods of time.

### **Recovery of Funds**

If PIA reviews did not catch errors, which are later found and are determined to be ministerial or clerical, then no recovery of funds should occur. If a district, school, or library reaches a preset threshold of errors, then it should be required to attend training and placed on a watch list for a year to ensure program understanding. When recovery of funds is requested then there should be allowance for an administrative hearing prior to issuance of a letter seeking fund recovery.

### **Funding Ceiling**

The District believes placing a ceiling on the total amount of funding an applicant can request penalizes large districts. Restricting funding to large districts would not decrease waste, fraud and abuse, rather it would punish the children who are the most needy as most large urban school districts have extensive poverty populations. The E-Rate program was developed to assist the very students it would now be excluding.

### **Competitive Bidding**

It is recommended no new rules for competitive bidding be implemented. The District requests that State and local procurement rules and policies continue to apply.

### **Conclusion**

The Los Angeles Unified School District appreciates the work of the Commission to improve the E-Rate program and meet the needs of our nation's students. The District also appreciates the opportunity given by the FCC, USAC, and the SLD for entities to provide comment and feedback on any Proposed Rulemaking. Aligning with the goals of the NPRM, we believe our recommendations not only will improve the program by streamlining processes and reducing waste, but we also believe these suggestions will benefit all involved.

Respectfully yours,

  
Margaret A. Klee